

on each case that the individual packages contained therein weighed 1 pound each, the goods were misbranded in violation of section 8 of the act, and on January 20, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the eastern district of Texas, who filed a libel for seizure and condemnation of the goods, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *June 28, 1909.*

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(N. J. 90.)

# **MISBRANDING OF CANNED PEAS.**

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 300 cases of canned peas, a proceeding of libel under section 10 of the aforesaid act, lately pending in the district court of the United States for the southern district of Illinois, for the seizure and condemnation of said goods. The peas were misbranded in this, each case was branded as containing "2 doz. 2 lb." cans of peas, whereas, in fact, the average gross weight of each can was 1 pound 9 ounces. The goods had been packed by the Reynolds Preserving Company, Sturgeon Bay, Wis., and shipped by said company on August 31, 1908, to J. F. Humphreys & Co., Bloomington, Ill. J. F. Humphreys & Co. having appeared and filed its answer, admitting all the material allegations of the libel, and the cause having come on for a hearing on March 6, 1909, the court adjudged the goods misbranded and rendered its decree in substance and in form as follows:

UNITED STATES OF AMERICA, <i>Libellant,</i>	} No. 11098.
<i>vs.</i>	
THREE HUNDRED CASES, MORE OR LESS, OF CANNED PEAS.	

## ORDER OF COURT.

Now, on this 6th day of March, 1909, at the term of said court at Springfield, Illinois, in said district, this matter coming on to be heard, and it appearing to the court that upon the libel filed herein monition and warrant of arrest was duly issued

and served on the first day of February, A. D. 1909, and that by virtue of said warrant the marshal has seized and now holds, to wit, three hundred forty-two cases of canned peas of the approximate value of one thousand (\$1,000) dollars, containing two dozen cans to the case, the said three hundred forty-two cases of peas with the contents having been seized within the premises and in the possession of J. F. Humphreys and Co., a corporation within said district, and it appearing to the court that due and legal notice and proclamation have been given to all persons having or claiming to have any claim, right, or interest therein by the first Monday of March, 1909, and no person having appeared or claiming any title or interest in said property other than the said J. F. Humphreys and Co., in whose possession said goods were found, and the said J. F. Humphreys and Co., appearing by Alonzo Hoff, its attorney, and admitting each and all material allegations set forth in said libel, and the court now being fully advised in the premises, finds for the libelant, and finds that the contents of said three hundred forty-two cases contained canned peas of two dozen cans each, an article of food, and that the said cases are misbranded within the meaning of the act of Congress of June 30, 1906, and that the same have been transported in interstate commerce from the State of Wisconsin to the city of Bloomington, in the State of Illinois, and that the same remain unsold in the original and unbroken package, and the court further finds that said articles of food are misbranded and in violation of said act of Congress, in that said cases and each of them contain less in weight than the amount as shown by the brands thereon.

The court further finds that the said article of food contained in the said three hundred forty-two cases is not adulterated, poisonous, or deleterious, but that the violation of said act of Congress is in the misbranding of said cases as to the quantity contained in each case, and that the same were consigned only to the wholesale dealer and not sold to the public for consumption.

Wherefore, it is ordered, adjudged, and decreed by the court that the said three hundred forty-two cases of peas with the contents as aforesaid be, and hereby are, declared to be misbranded in violation of the act of June 30, 1906, as charged in said libel.

And it is further ordered that the said three hundred forty-two cases of peas and the contents thereof be, and hereby are, condemned and forfeited as provided by the said act of June 30, 1906.

It is provided, however, that upon the payment of all the costs of the proceeding herein, including all court, clerk's, and marshal's costs, and all other costs incident to or contracted in this proceeding, and the execution and delivery of the said J. F. Humphreys and Co. to the libelant of a good and sufficient bond in a penalty of one thousand (\$1,000) dollars, conditioned that the said three hundred forty-two cases of peas with the contents aforesaid shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, that said marshal shall redeliver the said three hundred forty-two cases of peas with their contents to the said J. F. Humphreys and Co., in lieu of the retention and destruction thereof, and that the libelant have and receive from the J. F. Humphreys and Co., its costs herein, for which execution shall issue if the costs are not paid as hereinbefore provided.

The facts in the case were as follows:

On or about January 29, 1909, an inspector of the Department of Agriculture located in the possession of J. F. Humphreys & Co., Bloomington, Ill., 150 cases (each containing 24 cans) of peas labeled "2 doz. 2 lb. Sweet Wisconsin Brand Marrowfat Peas, The Reynolds Preserving Company, Sturgeon Bay, Wisconsin," and 150 cases (each containing 24 cans) of peas labeled "2 doz. 2 lb. Sweet Wisconsin Brand Telephone Peas, The Reynolds Preserving Company,

Sturgeon Bay, Wisconsin." A representative number of the cans was weighed by the inspector, and the average gross weight of each can was found to be 25 ounces.

The facts were reported by the Secretary of Agriculture to the United States attorney for the southern district of Illinois, and a libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *June 28, 1909.*